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10/764,287	01/23/2004	Michael D. Ellis	81788-4300	9180

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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON, DC 20006

EXAMINER	
KARIKARI, KWASI	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/764,287	ELLIS ET AL.	
	Examiner	Art Unit	
	Kwasi Karikari	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 November 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *3-6 and 10-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *3-6 and 10-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 3-6 and 10-27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-6 and 10-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase/term "the modular personal network is **about the same size** as a user's personal space" in claims 3,10,18 and 25 is a relative term which renders the claim indefinite. The term/phrase "the modular personal network is **about the same size** as a user's personal space" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The actual/specific size of the user's personal space is not clearly defined in the specification. Appropriate corrections or clarifications are required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 16-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amended claimed limitations, "the modular personal network automatically continues to operate with any remaining network components when the single network component is removed", see claims 16 and 23, "wherein the jewelry individual network component in the modular personal network automatically configures to adapt to an addition or removal of a another modular personal network component, see claims 17 and 24, " wherein individual network component of a modular personal network automatically join the modular personal network when said individual network component enters the user's personal space", see claims 18 and 25, "wherein each individual network component store identification information of other individual network components in its current modular personal network", see claims 19 and 26 and "wherein each individual network component stores network identification information for the current modular personal network", see claims 20 and 27, are not clearly described in the specification as originally filed and this constitute new matter.

Furthermore, the Applicant fails to cite the paragraphs (in the specification) where the rejected new claimed limitations could be found.

For examination purposes, the Examiner would interpret the rejected claimed limitations in the broadest scope of the Applicant's invention. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3-5, 10-12 and 14-27 are rejected under U.S.C. 103(a) as being unpatentable over Kivela et al. (U.S 6,272,359), (hereinafter Kivela) in view of Anderson (U.S 6,594,370), (hereinafter Anderson).

Regarding claims 3 and 10, Kivela discloses jewelry individual network component comprising:

a wireless transceiver configured to send data to and receive data from other individual network components in a modular personal network (= communication between devices or a localized communication system, see col. 2, lines 22-29 and col. 3, line 32- col. 4, line 23, col. 15, line 20- col. 16, line 23 ; and Figs. 1a, 4a and 8; whereby the communication network formed among the wireless devices worn in the first and second part of the radio telephone is being associated with the "modular personal network");

circuitry (= communication path between devices, see Figs. 1a & 4a) provide a specific function for modular personal network,

a mount configured to allow a user wear the jewelry individual network component (= first part can be kept on a belt, and the second part on the wrist, see col. 2, lines 22-29 and col. 4, lines 11-23) and whereby the jewelry individual network component is configured to operate as an individual network component in the modular personal network so as to send or receive data from one or more other individual network components of the modular personal network that are also carried by the user (= communication links between devices, see col. 3, line 32- col. 4, line 23; and first part can be kept on a belt, and the second part on the wrist, see col. 2, lines 22-29 and col. 4, lines 11-23; and Figs. 1a & 4a);

wherein the modular personal network has characteristics (= communication), which are imparted onto network components operable in the network including the

jewelry network component, the characteristics comprising each component providing one or more functions to the network (= communication between devices in the first and second part of the radio telephone, see Fig. 1a), the modular personal network is about the size as a user's personal space (= user interface of the radio telephone is constituted in manner that is easy to carry along by the user, and to be kept within the reach of hands, see col. 2, lines 1-21, col. 15, line 20- col. 16, line 23 ; and Fig. 18), and individual components operating in the modular personal network are configured to receive from or transmit data to one or more other components in the modular personal network (= communication between devices, see col. 2, lines 1-21, col. 15, line 20- col. 16, line 23; and Fig. 18 and see abstract); but fails to specifically mention "a new network component **can be added to the modular personal network at any time** to increase the capabilities of the system" and "a single network **component can be removed** resulting in an operating modular personal network that can perform without that network component and its corresponding one or more functions".

However, Anderson teaches a wireless communication system including a wireless communication between **one of more earpieces** worn at the ear(s) and a remote processing unit worn at the neck of a user (see col. 1, lines 15-26). Anderson further mentions that the **earpieces** and the remote processing unit may in turn communicate with **other peripheral and control equipment such as a display worn on the wrist like watch as well as cellular telephone and paging systems** (see col. 1, lines 15-26 and col. 3, lines 43-53).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Anderson into the system of Kivela for the benefit of achieving a system that can be hidden behind the ear or in the ear canal; less conspicuous when worn under clothing and also allows low power operation (see Anderson col. 3, lines 4-28 and col. 4, lines 20-40).

Regarding claims 4 and 11, as recited in claims 3 and 10, Kivela discloses all the claimed limitations (see col. 11, line 50- col. 12, line 49); but fails specifically to teach that the jewelry individual network component is an earring speaker wherein the mount is configured to be worn in the pieced ear.

However, Anderson teaches that the jewelry individual network component is an earring speaker wherein the mount is configured to be worn in the pieced ear (= remote processing unit communicates with earpiece, see col. 4, lines 20-35).
It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Anderson into the system of Kivela for the benefit of achieving a system that can be hidden behind the ear or in the ear canal; less conspicuous when worn under clothing and also allows low power operation (see Anderson col. 3, lines 4-28 and col. 4, lines 20-40).

Regarding claims 5 and 12, as cited in claims 3 and 10, Kivela discloses the jewelry-individual network component, wherein circuitry comprises demodulator for processing the received signals and a demodulator for converting the processed signals; and the

wireless transceiver comprises wireless transmitter for sending the converted signal to another device worn by the user (see col. 3, line 32- col. 4 line 65); but fails to teach the modular component is an earring.

However, Anderson teaches that the remote processing unit communicates with earpiece, see col. 4, lines 20-35).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Anderson into the system of Kivela for the benefit of achieving a system that can be hidden behind the ear or in the ear canal; less conspicuous when worn under clothing and also allows low power operation (see Anderson col. 3, lines 4-28 and col. 4, lines 20-40).

Regarding claims 14 and 21, as cited in claims 3 and 10, Anderson discloses the jewelry-individual network component, wherein the new network component is added to implement a new function for the user in the modular personal network (= wireless communication system including a wireless communication between **one of more earpieces** worn at the ear(s) and a remote processing unit worn at the neck of a user, see col. 1, lines 15-26, **earpieces** and the remote processing unit may in turn communicate with **other peripheral and control equipment such as a display worn on the wrist like watch as well as cellular telephone and paging systems,** see col. 1, lines 15-26 and col. 3, lines 43-53).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Anderson into the system of Kivela for the benefit of achieving a system that can be hidden behind the ear or in the ear canal; less conspicuous when worn under clothing and also allows low power operation (see Anderson col. 3, lines 4-28 and col. 4, lines 20-40).

Regarding claims 15 and 22, as cited in claims 3 and 10, Anderson discloses the jewelry-individual network component, wherein new network components automatically join the modular personal network (= wireless communication system including a wireless communication between **one of more earpieces** worn at the ear(s) and a remote processing unit worn at the neck of a user, see col. 1, lines 15-26, **earpieces** and the remote processing unit may in turn communicate with **other peripheral and control equipment such as a display worn on the wrist like watch as well as cellular telephone and paging systems,** see col. 1, lines 15-26 and col. 3, lines 43-53).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Anderson into the system of Kivela for the benefit of achieving a system that can be hidden behind the ear or in the ear canal; less conspicuous when worn under clothing and also allows low power operation (see Anderson col. 3, lines 4-28 and col. 4, lines 20-40).

Regarding claims 16 and 23, as cited in claims 3 and 10, Anderson discloses the jewelry-individual network component, wherein the modular personal network automatically continues to operate with any remaining network components when the single network component is removed (= wireless communication system including a wireless communication between **one of more earpieces** worn at the ear(s) and a remote processing unit worn at the neck of a user, see col. 1, lines 15-26, **earpieces** and the remote processing unit may in turn communicate with **other peripheral and control equipment such as a display worn on the wrist like watch as well as cellular telephone and paging systems,** see col. 1, lines 15-26 and col. 3, lines 43-53).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Anderson into the system of Kivela for the benefit of achieving a system that can be hidden behind the ear or in the ear canal; less conspicuous when worn under clothing and also allows low power operation (see Anderson col. 3, lines 4-28 and col. 4, lines 20-40).

Regarding claims 17 and 24, as cited in claims 3 and 10, Anderson discloses the jewelry-individual network component, wherein the jewelry individual network component in the modular personal network automatically configures to adapt to an addition or removal of a another modular personal network component (= wireless communication system including a wireless communication between **one of more**

earpieces worn at the ear(s) and a remote processing unit worn at the neck of a user, see col. 1, lines 15-26, **earpieces** and the remote processing unit may in turn communicate with **other peripheral and control equipment such as a display worn on the wrist like watch as well as cellular telephone and paging systems,** see col. 1, lines 15-26 and col. 3, lines 43-53).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Anderson into the system of Kivela for the benefit of achieving a system that can be hidden behind the ear or in the ear canal; less conspicuous when worn under clothing and also allows low power operation (see Anderson col. 3, lines 4-28 and col. 4, lines 20-40).

Regarding claims 18 and 25, as cited in claims 3 and 10, Anderson discloses the jewelry-individual network component, wherein individual network component of a modular personal network automatically join the modular personal network when said individual network component enters the user's personal space (= wireless communication system including a wireless communication between **one of more earpieces** worn at the ear(s) and a remote processing unit worn at the neck of a user, see col. 1, lines 15-26, **earpieces** and the remote processing unit may in turn communicate with **other peripheral and control equipment such as a display worn on the wrist like watch as well as cellular telephone and paging systems,** see col. 1, lines 15-26 and col. 3, lines 43-53).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Anderson into the system of Kivela for the benefit of achieving a system that can be hidden behind the ear or in the ear canal; less conspicuous when worn under clothing and also allows low power operation (see Anderson col. 3, lines 4-28 and col. 4, lines 20-40).

Regarding claims 19 and 26, as cited in claims 3 and 10, Kivela discloses the jewelry-individual network component, wherein each individual network component store identification information of other individual network components in its current modular personal network (see col. 6, lines 36-63)

Regarding claims 20 and 27, as cited in claims 3 and 10, Kivela discloses the jewelry-individual network component, wherein each individual network component stores network identification information for the current modular personal network (see col. 6, lines 36-63).

4. **Claims 6 and 13 are rejected under U.S.C. 103(a) as being unpatentable over Kivela in view of Anderson and further in view of Willard (U.S. 4,803,487), (hereinafter Willard).**

Regarding claims 6 and 13, as recited in claims 3 and 10, Kivela discloses the claimed limitations concerning the transceiver and circuitry components (= communication links between devices, see col. 3, line 32- col. 4, line 23; and Figs. 1a & 4a); but the combination of Kivela and Anderson fails to teach that the component is a ring individual network component wherein: the mount is of a ring configured to be worn around a user's finger.

However, Willard teaches wherein the jewelry individual network component is a ring individual network component wherein: the mount is of a ring configured to be worn around a user's finger (see col. 3, lines 51-61).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Willard into the system of Kivela and Anderson for the benefit of achieving a system that include communication receiver which utilizes a separate presentation unit for display of received data message (see Willard col. 2, lines 14-26).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of 33the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwasi Karikari whose telephone number is 571-272-8566. The examiner can normally be reached on M-F (8 am - 4pm). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Rafael Pérez-Gutiérrez* can be reached on 571-272-7915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8566. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kwasi Karikari
Patent Examiner.
02/18/2008

Rafael Perez-Gutierrez
Supervisory Patent Examiner
Technology Center 2600
Art Unit 2617
2/19/08